



**Upper Tribunal
(Immigration and Asylum Chamber)**

Appeal Number: PA/10845/2018

THE IMMIGRATION ACTS

**Heard at Birmingham CJC
On 16th May 2019**

**Decision & Reasons Promulgated
On 29th May 2019**

Before

DEPUTY UPPER TRIBUNAL JUDGE JUSS

Between

**RKH
(ANONYMITY DIRECTION MADE)**

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Mr Sanjay Toora (Counsel)

For the Respondent: Ms H Aboni (Senior HOPO)

DECISION AND REASONS

1. This is an appeal against a decision of First-tier Tribunal Judge James, promulgated on 12th December 2018, following a hearing at Birmingham on 13th November 2018. In the decision, the judge dismissed the appeal of the Appellant, whereupon the Appellant subsequently applied for, and was granted, permission to appeal to the Upper Tribunal, and thus the matter comes before me.

The Appellant

2. The Appellant is a male, a citizen of Iraq, and was born on 29th June 1995. He appealed against the decision of the Respondent dated 28th August 2018, refusing his claim for asylum and for humanitarian protection, pursuant to paragraph 339C of HC 395.

The Appellant's Claim

3. The essence of the Appellant's claim is twofold. First, that he pursued a relationship with a '*Berivan Hassan*' without permission of her parents. Second, that he had a well-founded fear of persecution because he had reported a group of drug dealers to the authorities. With respect to the former, the Respondent noted that the Appellant had not mentioned the relationship with *Berivan Hassan* during his screening interview, although he had mentioned it during his asylum interview, but had then added that it was not the main reason for leaving Iraq. With respect to the latter, the Respondent observed that the Appellant's narrative regarding an encounter with drug dealers has several inconsistencies as to date, as to whether the group wanted to buy or sell drugs, as to whether he had been shown drugs in the group's vehicle, as to whether he knew the names of individuals, as to whether he had taken the vehicle registration, and as to the number of people who had been arrested. The Respondent had, for these reasons, rejected the claim.

The Judge's Finding

4. The judge dismissed the Appellant's appeal for the following reasons. First, he was not satisfied that the Appellant faced any risk from *Miss Hassan's* family on return to Iraq. The only threat identified by the Appellant was from her brother on three occasions that he had seen them together. The last of these threats was on 15 September 2017. The Appellant did not see *Miss Hassan* after that date, and despite staying in Iraq for the next three months, he received no threats from her family. In any event, the Appellant would safely relocate to another part of Iraq to avoid any threats or action by her family (see paragraph 26).
5. Second, with respect to the Appellant's claim of an incident involving the drug dealers, the judge observed how the Appellant had sought to clarify the inconsistencies that the Respondent had identified, in a subsequent statement from paragraphs 14 to 25, producing three photographs, that he claims were from the Assayish files. The photographs, the Appellant claimed, showed the contents of the drug dealers car on the night in question. The Appellant claimed that he was shown large quantities of drugs in the car. However, the judge observed that the photographs only showed very small quantities.
6. Moreover, the Appellant was unable to explain this beyond saying that these are photographs provided by the Assayish (see paragraph 29). The judge also went on to state that the Appellant had continued to remain in his normal place of work working at the pharmacy and had not been

subject to any threats. Therefore, there was no well-founded fear of persecution.

7. The appeal was dismissed.

Grounds of Application

8. The grounds of application state that the judge had engaged in a fundamental mistake as to error of fact. The Appellant had clearly stated that he had left Chwarqurna, where he worked in the pharmacy, on 5 December 2017, and he had then moved to Sulaymaniyah, where he stayed until he left Iraq. However, the judge stated that the Appellant worked at the pharmacy until he left Iraq on 22 December 2017, and had not received any threats at that place of work, which was factually incorrect, given that he had left Chwarqurna two months prior to eventually leaving Iraq.
9. On 22 January 2019, permission to appeal was granted by the Tribunal.
10. On 8 April 2019, a Rule 24 response was added to the effect that the judge had given adequate reasons for rejecting the Appellant's account of an incident with drug dealers, finding his account inconsistent, and not supported by any evidence. The judge also gave adequate reasons for finding the photographs of little value in corroborating the Appellant's account.

Submissions

11. At the hearing before me, Mr Toora, appearing as Counsel on behalf of the Appellant, submitted that the error with respect to when the Appellant had left the pharmacy was a material error of law. This was because the judge's eventual conclusion was that the Appellant had not received any threats at his normal place of work. This could only be correct, submitted Mr Toora, if the Appellant had left his normal place of work on 22 December 2017. However, the reality was the Appellant had already left two months earlier the pharmacy on 5 October 2017, and had then relocated to Sulaymaniyah, before leaving to come to the UK on 22 December 2017. Therefore, the Appellant was bound not to have seen any threats at his normal place of work because he was not there after 5th October 2017. Second, the judge had failed to deal with sufficiency of protection.
12. For her part, Ms Aboni submitted that whilst there was a factual error in the judge stating (at paragraph 30) that "I have noted that the Appellant continued to work at his normal place of work at the pharmacy until he left Iraq on 22 December 2017", the fact was that this was not a material error, because the judge had already rejected the entirety of the Appellant's account for lacking in credibility because of inconsistencies in their account. The judge had simply not believed that the Appellant had any dealings with the drug dealers. Therefore, this could not be a material error.

No Error of Law

13. I am satisfied that the making of the decision by the judge did not involve the making of an error on a point of law, such that it falls to be set aside (see paragraph 12(1) of TCEA 2007). My reasons are as follows.
14. First, the judge had rejected the Appellant's account of being involved with drug dealers in its entirety. When the judge first considered the matter, he was clear that:-

"The Appellant has been unclear about whether he was asked to buy drugs from the dealers or sell drugs to them. He has been unclear about how many of them were arrested. He has claimed all of them were arrested and also that only the driver was arrested ..."
(paragraph 28).
15. The Appellant had then gone on to claim that he had been threatened and that the first of the tests came on 1st October 2017, but that "The Appellant has been unable to provide any evidence of these threats despite having access to his social media accounts". The judge observed how it was that "He has provided a Facebook page from a person called Kura Jwanaka from whom he claims to have received threats but has produced no documentary evidence of them" (see paragraph 30).
16. The judge went on to consider the photographs that had been provided but observed that these:-

"could be of any police incident and they do not show what the Appellant claims was in the drug dealers car both as to amount of drugs and types. I reject his narrative and find that the Appellant would not be at risk from any drug dealers on return to Iraq"
(paragraph 31).
17. Finally, the judge had considered the possibility of internal relocation at the end of the decision (at paragraph 32), observing that the Appellant could seek relocation in Sulaymaniyah, a place to which he had fled because he was of Kurdish ethnicity and "has a CSID in the hands of his parents in Iraq" (paragraph 32).
18. Accordingly, the judge had provided a detailed and comprehensive decision that was open to him to make.
19. An anonymity direction is made.
20. This appeal is dismissed.

Direction Regarding Anonymity - Rule 14 of the Tribunal Procedure (Upper Tribunal) Rules 2008

Unless and until a Tribunal or court directs otherwise, the Appellant is granted anonymity. No report of these proceedings shall directly or indirectly identify him or any member of their family. This direction applies both to the Appellant and to the Respondent. Failure to comply with this direction could lead to contempt of court proceedings.

Signed

Date

Deputy Upper Tribunal Judge Juss

24th May 2019